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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/620,318

07/14/2003

Paul V. Cooper

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10/08/2009

SQUIRE SANDERS & DEMPSEY LLP

TWO RENAISSANCE SQUARE, 40 NORTH CENTRAL AVENUE

SUITE 2700

PHOENIX, AZ 85004-4498

EXAMINER

KASTLER, SCOTT R

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

10/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/620,318	<b>Applicant(s)</b> COOPER, PAUL V.	
	<b>Examiner</b> Scott Kastler	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14, 16-21, 23-26, 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21, 23-26 and 39 is/are allowed.
- 6) ☒ Claim(s) 14, 16-20 and 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16, 17, 19, 20 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,767,230 to Leas, Jr. (Leas). Leas teaches a coupling (see figure 3 for example) which could be employed if desired for coupling gas transferring shafts or conduits in a molten metal device (see col. 4 lines 15-21 for example) including a coupling member (10) which can be connected to a second coupling member (12 in fig. 1 for example), where the coupling member includes a bore having an opening with proximal and distal ends where the proximal end is threaded (48) with “coarse” threads and the distal end (42) through which gas could be delivered if desired, is smooth and tapered with no threads, where the coupling member further includes a section (32) which would act as a counterweight and further includes one or more apertures for receiving a tool for shaft removal (see fig 2 for example) thereby showing all aspects of the above claims since the recited manner or method of use of the claimed apparatus (for use in delivering gas in a molten metal device) cannot be relied upon to fairly further distinguish claims to the apparatus itself when, as in the instant case, the apparatus disclosed by the prior art could perform the recited function if desired, whether or not such a use is disclosed or desired by the applied prior art. See MPEP 2114 and 2115.

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Claims 14, 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Howie et al. Howie et al teaches a coupling (66) see col. 5 lines 10-30 for example, including a smooth tapered end through which gas could be delivered, and a threaded end with a bore opening in between made of stainless steel showing all aspects of the above claims since the recited manner or method of use of the claimed apparatus (for use in delivering gas in a molten metal device) cannot be relied upon to fairly further distinguish claims to the apparatus itself when, as in the instant case, the apparatus disclosed by the prior art could perform the recited function if desired, whether or not such a use is disclosed or desired by the applied prior art. See MPEP 2114 and 2115.

#### ***Allowable Subject Matter***

Claims 21, 23-26 and 39 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed on 7/17/2009 have been fully considered but they are not persuasive. Applicant's argument that Leas does not disclose a coupling having a bore with an opening for receiving a shaft is not persuasive because as stated above in figure 3 for example, Leas clearly teaches a coupling with an opening including tapered and threaded ends. Again as stated in the above rejection to use of the coupling in any particular manner, i.e, the inserting of a shaft in any particular manner for example, or the delivery of gas through the coupling, are

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limitations directed to the particular use of the claimed apparatus (a coupling) and as such cannot be relied upon to fairly further distinguish claims to the apparatus itself. See MPEP 2114.

Applicant's further argument that Howe does not teach a coupling with a bore for receiving a shaft is also not persuasive since as stated above this coupling (the bottom of shaft 66) meets the above claim requirements since the claims do not require that the bore in the coupling extend completely through the coupling body. Also applicant's arguments that Howe is not employed in the manner recited in the instant claims is again not persuasive since the manner or method of use of an apparatus cannot be relied upon to fairly further limit claims to the apparatus itself.

Applicant's arguments regarding amended claims 21, 23-26 and 29 however are convincing and the rejections of these claims, which require the coupling within the context of a rotary degasser structure have been withdrawn and the claims indicated as allowable.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott Kastler/  
Primary Examiner, Art Unit 1793

sk